

### **REMARKS/ARGUMENTS**

Reconsideration of this application as amended is requested. By this amendment, Claims 1-6, 8-13, and 15-21 have been amended. After this amendment, Claims 1-22 remain pending in this application.

### **Claim Rejections - under 35 USC § 102**

(1) The Examiner rejected Claims 1-6, 8-13 and 15-21 under 35 U.S.C. 102(e) as being anticipated by Goldstein et al. (U.S. Patent 6,247,105).

Applicants have amended independent Claims 1, 8, and 16 to further clarify that “pinned kernel memory”, as previously recited by Claims 1, 8, and 16, is “**non-pageable** pinned kernel memory” and to also comply with the Examiner’s remarks on page 8 of this final office action under the heading **Response to Arguments**. The claims now more clearly and distinctly recite, “**non-pageable** pinned kernel memory”; “a base **non-pageable** pinned kernel memory block” and allocating “an additional **non-pageable** pinned kernel memory block”. Additionally, Claim 8 also more clearly and distinctly recites “a **non-pageable** kernel memory allocation module”. Support for these amendments may be found in the specification as originally filed, for example, see page 9, lines 5-12. No new matter was added.

**Goldstein et al.**

As discussed in the prior amendment and as pointed out by the Examiner on page 3 of this final Office Action, Goldstein et al. explicitly teaches memory paging. For example, Goldstein teaches that when a single memory page fails to yield sufficient memory for a memory request that "it may be necessary to allocate memory across page boundaries" (Col. 9, Lines 55-65). Additionally, Goldstein further teaches using multiple memory pages for satisfying a memory request (Col. 11, Lines 1-3).

**Claims 1, 8, and 16 Of The Present Invention**

As now recited in amended Claims 1, 8, and 16, the present invention recites, among other things, "**non-pageable** pinned kernel memory". Data stored in "**non-pageable** pinned kernel memory" is prevented from being paged out of real memory and into virtual memory (See for example, Specification, page 3, lines 10-27 and page 9, lines 5-10). Therefore, allocating memory across page boundaries is prevented.

**Contrast of Goldstein et al.**

In contrast, Goldstein et al. does not teach "**non-pageable** pinned kernel memory" as now recited in amended Claims 1, 8, and 16, and for all dependent claims depending therefrom, respectively. In fact, Goldstein et al. explicitly teaches **pageable** memory (See for example, Col. 5, Lines 44-52). Consequently, any data that is stored on those memory pages in Goldstein is swapped out into virtual memory. **Non-pageable** pinned kernel memory, on the other hand and as recited by amended Claims 1, 8, and 16, is the memory used by the operating system and is configured so that the data contained therein is not paged out of real memory (See for example, Specification, Page 3, Lines 10-27). Therefore, Goldstein does not teach or suggest "**non-pageable** pinned kernel memory" as now clearly recited for amended Claims 1, 8, and 16, and for all dependent claims depending therefrom, respectively.

Therefore, in view of the amendment and remarks above, Applicants believe that since Goldstein et al. does not teach, anticipate, or suggest, the presently claimed “non-pageable pinned kernel memory”; “a base non-pageable pinned kernel memory block” or the allocation of an “additional non-pageable pinned kernel memory block”, the rejection of Claims 1, 8, and 16 under 35 U.S.C. 102(e) has been overcome. The Examiner should withdraw the rejection of these claims.

Claims 2-6, 8-13, and 15-21 depend from amended Claims 1, 8, and 16 respectively and, since dependent claims recite all of the limitations of the independent claim, it is believed that, therefore, these dependent claims also recite in allowable form. Accordingly, the above arguments and remarks regarding amended Claims 1, 8 and 16, are also relevant to, and support, the allowability of Claims 2-6, 9-13, and 15-21. Therefore, the Examiner should withdraw the rejection of all these Claims 1-6, 8-13 and 15-21.

#### **Allowable Subject Matter**

(2) The Applicants respectfully acknowledge the Examiner's allowance of claims 7, 14, and 22.

#### **Conclusion**

The foregoing is submitted as full and complete response to the Official Action mailed September 30, 2004, and it is submitted that Claims 1-22 are in condition for allowance, or alternatively are in better form for consideration on appeal. Accordingly, reconsideration of the rejection is requested. Allowance of Claims 1-22 is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §§ 1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment are limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and the attorneys.

The present application, after entry of this amendment, comprises twenty-two (22) claims, including five (5) independent claims. Applicants have previously paid for twenty (22) claims including five (5) independent claims. Applicants, therefore, believe that an additional fee for claims amendment is currently not due.

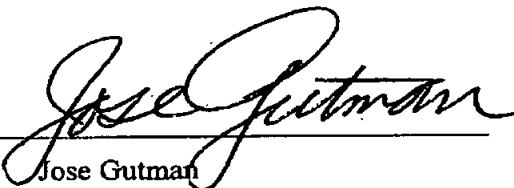
**If the Examiner believes that there are any informalities that can be corrected by Examiner's amendment, or that in any way it would help expedite the prosecution of the patent application, a telephone call to the undersigned at (561) 989-9811 is respectfully solicited.**

The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account 50-1556.

In view of the preceding discussion, it is submitted that the claims are in condition for allowance. Reconsideration and re-examination is requested.

Respectfully submitted,

Date: 11/1/04

By:   
Jose Gutman  
Reg. No. 35,171

**Please send all correspondence concerning  
this patent application to:**

Jose Gutman, Esq.  
FLEIT, KAIN, GIBBONS, GUTMAN  
BONGINI & BIANCO P.L.  
551 N.W. 77th Street, Suite 111  
Boca Raton, FL 33487  
Tel (561) 989-9811  
Fax (561) 989-9812